

STATE OF CALIFORNIA - BUSINESS, TRANSPORTATION AND HOUSING AGENCY

ARNOLD SCHWARZENEGGER, Governor

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT**

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June 15, 2009

Mr. David Brandt
Assistant City Manager
City of Alameda
2263 Santa Clara Avenue, Room 190
Alameda, CA 94501

Dear Mr. Brandt:

RE: Review of the City of Alameda's Draft Housing Element Update

Thank you for submitting the City of Alameda's draft housing element update received for review on April 16, 2009. The Department is required to review draft housing elements and report the findings to the locality pursuant to Government Code Section 65585(b). Communication with Mr. Andrew Thomas, Planning Manager, facilitated the review. In addition, the Department considered comments from Renewed Hope and Arc Ecology, pursuant to Section 65585(c).

The draft element addresses some statutory requirements; however, revisions will be necessary to comply with State housing element law (Article 10.6 of the Government Code). For example, the element must include analyses of identified sites and potential governmental constraints and revise or add programs to address constraints and assist in the development of housing for lower-income households. The enclosed Appendix describes necessary revisions needed to comply with State housing element law.

We are committed to provide any assistance needed to facilitate your efforts to bring the element into compliance. If you have any questions or would like assistance, please contact Paul McDougall, of our staff, at (916) 322-7995.

Sincerely,

Cathy E. Creswell
Deputy Director

cc: Eve Bach, Arc Ecology
Laura Thomas, Renewed Hope

APPENDIX CITY OF ALAMEDA

The following changes would bring the City of Alameda's housing element in to compliance with Article 10.6 of the Government Code. The pertinent Government Code Section is cited for each recommended change.

Housing element technical assistance information is available on the Department's website at www.hcd.ca.gov. Refer to the Division of Housing Policy Development and the section pertaining to State Housing Planning. Among other resources, please refer to the Department's latest technical assistance tool *Building Blocks for Effective Housing Elements* (*Building Blocks*) at http://www.hcd.ca.gov/hpd/housing_element/index.html, the Government Code addressing State housing element law and other resources.

A. Housing Needs, Resources, and Constraints

1. *Include an analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected needs for all income levels, including extremely low-income household (Section 65583(a)(1)).*

Extremely Low-Income (ELI) households: While the element quantifies existing ELI renter households (Appendix 2), in accordance with Chapter 891, Statutes of 2006 (AB 2634), it must include a quantification of both owner and renter ELI households and an analysis of the housing needs of existing ELI households. The analysis could consider household characteristics such as overpayment and overcrowding and evaluate housing and zoning available for ELI households. In addition, the element must include an estimate of the projected number of ELI households. The element may either use available census data to calculate the number of ELI households, or presume 50 percent of the very low-income households qualify as ELI households. To assist the analysis, see the enclosed Comprehensive Housing Affordability Strategy (CHAS) data, with overpayment information, and a sample analysis from the *Building Blocks*' website at http://www.hcd.ca.gov/hpd/housing_element2/EHN_extremely_lowincome.php.

2. *Include an inventory of land suitable for residential development, including vacant sites and sites having the potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites (Section 65583(a)(3)). The inventory of land suitable for residential development shall be used to identify sites that can be developed for housing within the planning period (Section 65583.2).*

Alameda has a regional housing need of 2,046 housing units, including 811 for lower-income households. To address this need, the element relies on recent construction and approvals, pending projects, and vacant and non-vacant sites. However, to demonstrate the adequacy of these sites and strategies, the element must provide analyses, as follows:

Addressing Unaccommodated Need from the Previous Planning Period: Pursuant to Chapter 614, Statutes of 2005 (AB 1233), if Alameda failed to identify or make adequate sites available to accommodate the regional housing need in the prior planning period, including failure to implement rezoning, the City must zone or rezone sites to accommodate any unaccommodated need within the first year of the 2009-2014 planning period. As you know, the City did not adopt an element demonstrating

adequate sites in the prior planning period. As a result, the element must include an analysis or programs to demonstrate compliance with this requirement. Further information can be found at http://www.hcd.ca.gov/hpd/hrc/plan/he/ab_1233_final_dt.pdf or on the *Building Blocks'* website at http://www.hcd.ca.gov/hpd/housing_element2/GS_reviewandrevise.php.

Progress Toward Meeting the Regional Housing Need: The element credits approved or constructed units toward the regional housing need (page 5-3); however it does not describe project status or affordability. For example, sites 7 and 9 include no information on the anticipated level of affordability by income group. To credit units toward the City's share of the regional housing need for lower-income households, the element must demonstrate affordability based on actual or anticipated rents and sales prices or other mechanisms ensuring affordability in the planning period. For more information see the *Building Blocks'* website at [http://www.hcd.ca.gov/hpd/housing_element2/HN PHN regional.php](http://www.hcd.ca.gov/hpd/housing_element2/HN_PHN_regional.php).

Alternative Adequate Sites: While the Department recognizes Alameda's efforts to preserve and rehabilitate housing, to credit existing housing (sites 2, 3 and 10) toward the City's share of the regional housing need, the element must address all the specific statutory requirements (Government Code Section 65583.1). For example, the element does not demonstrate committed assistance will be available through a program within the first two years of the housing element planning period (see the enclosed checklist for your assistance).

Sites Inventory: Pursuant to Chapter 724, Statutes of 2004 (AB 2343), the inventory must include:

Vacant and Non-Vacant: The element should clearly indicate whether sites are vacant or non-vacant. For non-vacant sites, the element must describe existing uses.

Multiple Parcels: Some sites appear to be comprised of multiple parcels. For example, site 5 (Infill) is made up of scattered individual parcels and site 26 (Alameda Point) consists of several sites or areas. The inventory must also list each parcel in the aggregated inventory by size, zoning, general plan designation and existing use. To aggregate multiple parcels, the element should describe the potential for lot consolidation and could include conditions rendering parcels suitable and ready for redevelopment, such as trends, information on the number of owners or indicate where sites have been assembled.

Current Zoning: Some sites are listed with pending general plan designations or pending zoning. The element should clearly identify the existing zoning for identified sites. Where sites require rezoning, the element must include programs as necessary.

Suitability and Availability: The element must describe any known environmental conditions that could impact development in the planning period. For example, sites 4, 12, 19 and 26 (Alameda Point) appear to require action prior to being available for development. The element includes some discussion of the City's past efforts to make the sites available and concludes Alameda Point can be available in the planning period. However, the element should clearly describe what steps remain for these sites to

become available. For example, the element could utilize a schedule similar to the one proposed in the previous planning period to demonstrate the availability of sites. In the case of known contaminated sites, including outside of Alameda Point, the element should include an estimate of the schedule for remediation.

Zoning for Lower-Income Households: Pursuant to Section 65583.2(c)(3)(A) and (B), the element must identify sites with zoning and densities appropriate to encourage and facilitate the development of housing for lower-income households based on factors such as market demand, financial feasibility and development experience within zones. For communities with densities that meet specific standards (at least 30 units per acre for Alameda), this analysis is not required (Section 65583.2(c)(3)(B)). While the element states the City has sufficient higher density sites (page 5-18), the inventory does not include any analysis of zoning appropriate to encourage and facilitate housing for lower-income households. In addition, the element does identify Measure A as a constraint and indicates it approximately doubles the amount of subsidy required to develop affordable housing when compared to multifamily development at 30 units per acre (page 6-22). The element must include an analysis of appropriate zoning consistent with the requirements above or add or revise programs as necessary.

Non-Vacant Sites: The element does not provide any information on existing uses. The element must describe the existing uses of non-vacant sites sufficiently to demonstrate the potential for redevelopment and evaluate the extent to which existing uses may impede additional residential development. The evaluation could include a description, relative to identified sites, of development trends, market conditions and regulatory incentives and standards to facilitate redevelopment or reuse. For sites with residential uses, the inventory should generally describe structural conditions or other circumstances and trends demonstrating the redevelopment potential to more intense residential uses. For non-residential sites, the inventory should generally describe whether the use is operating, marginal or discontinued, and the condition of the structure or could describe any expressed interest in redevelopment. Refer to the sample analysis on the *Building Blocks*' website at http://www.hcd.ca.gov/hpd/housing_element2/SIA_home.php.

Realistic Capacity: While the element utilizes typically built densities to determine the capacity of sites in the inventory (page 5-2), for mixed-use sites it must also account for the extent to which non-residential uses are allowed. Projected residential development capacity should not, for example, assume residential-only development of all mixed-use or commercial sites.

Zoning for a Variety of Housing Types:

Emergency Shelters: While the element includes a program to identify an appropriate zone where emergency shelters will be permitted without discretionary action, pursuant to Chapter 633, Statutes 2007 [SB 2], it must specifically identify the zone(s) or potential zones and demonstrate sufficient capacity to accommodate the need for emergency shelters. The element should also describe the characteristics and suitability of the zone(s) for emergency shelters. See the Department's SB 2 technical assistance memo at http://www.hcd.ca.gov/hpd/sb2_memo050708.pdf.

For Transitional and Supportive Housing: The element did not address this requirement. Pursuant to SB 2 transitional and supportive housing must be permitted as a residential use and only subject to those requirements that apply to other residential uses of the same type in the same zone. The element should either describe zoning consistent with these provisions or include programs as appropriate.

3. *Analyze potential and actual governmental constraints upon the maintenance, improvement, and development of housing for all income levels and persons with disabilities, including fees and other exactions required of developers (Section 65583(a)(4)).*

Inclusionary Requirement: The element indicates the City requires a specific percentage of residential developments to be affordable to lower-income households (page 6-12) and describes general pros and cons of inclusionary requirements. However, the element must describe the City's specific requirements and include an analysis of the requirements and how they are implemented for impacts on the cost and supply of housing. This is particularly important given current market conditions and the cumulative impact of local regulations. The City could engage the development community to facilitate this analysis. The analysis should describe how the City promotes compliance with inclusionary requirements, including any incentives or regulatory concessions.

Local Processing and Permit Procedures: While the element includes some information on the City's land development review committee, it must specifically describe and analyze the City's permit processing and approval procedures by zone and housing type. To address this requirement, the element should discuss processing procedures and time for typical single- and multi-family projects, including type of permit, level of review, approval findings and any discretionary approval procedures. Refer to the sample analysis on the *Building Blocks'* website at http://www.hcd.ca.gov/hpd/housing_element2/CON_permits.php.

Constraints on Persons with Disabilities: The element did not address this requirement. Pursuant to Chapter 671, Statutes of 2001 (SB 520), the element must include a complete analysis of potential constraints on the development, maintenance, and improvement of housing for persons with disabilities. The analysis should address zoning, development standards, building codes, and approval procedures for the development of housing for persons with disabilities. Examples of standards and requirements that should be analyzed include: (1) any definitions of family in the zoning code; (2) description of zones allowing for licensed residential care facilities with fewer than six persons; (3) discussion of permit procedures including any conditions or restrictions on the approval of group homes with seven or more residents; (4) spacing or concentration requirements; and, (5) whether the City has an adopted reasonable accommodation policy or procedure for providing exception in zoning and land-use. Refer to the Department's memo and the *Building Blocks'* sample analysis at http://www.hcd.ca.gov/hpd/housing_element2/CON_disabilities.php.

B. Quantified Objectives

Establish the number of housing units, by income level, that can be constructed, rehabilitated, and conserved over a five-year time frame (Section 65583(b)(1 & 2)).

While the element includes quantified objectives by income group for very low-, low-, moderate-, and above moderate-income (page 2-14), pursuant to AB 2634, it must also include objectives for ELI households.

C. Housing Programs

1. *Identify adequate sites which will be made available through appropriate zoning and development standards and with public services and facilities needed to facilitate and encourage the development of a variety of types of housing for all income levels, including rental housing, factory-built housing, mobilehomes, and emergency shelters and transitional housing. Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, the program shall provide for sufficient sites with zoning that permits owner-occupied and rental multifamily residential use by-right, including density and development standards that could accommodate and facilitate the feasibility of housing for very low- and low-income households (Section 65583(c)(1)).*

As noted in finding A2, the element does not include a complete sites inventory or analysis; as a result, the adequacy of sites and zoning for a variety of types and incomes has not been established. Based on the results of a complete sites inventory and analysis, the City will need to add or revise programs to provide adequate sites consistent with Government Code Sections 65583.2 and 65583(c)(1) to permit owner-occupied and rental multifamily uses by-right sufficient to accommodate the remaining need for lower-income households and:

- permit a minimum of 16 units per site;
- require a minimum density of 20 units per acre; and
- demonstrate at least 50 percent of the lower-income needs to be accommodated on sites designated for residential use only.

In addition:

Program 4e (Emergency Shelters): Commits to amend zoning to permit emergency shelters without discretionary action within one year of adoption, however, the program must also:

- identify the specific zone(s) for permitting emergency shelters (see Finding A2); and
- ensure development standards will encourage and facilitate the use and only subject shelters to the same development and management standards that apply to other allowed uses within the identified zone.

2. *Assist in the development of adequate housing to meet the needs of extremely low-, very low-, low-, and moderate-income households (Section 65583(c)(2)).*

The element must include specific commitment to assist in the development of housing for lower-income households, as follows:

General: The element does not include specific actions to assist in the development of rental housing for lower-income households. Programs to assist the development of housing are particularly important given the lack of new construction affordable to lower-income households in the previous planning period. For example, the element could include programs to initiate contact with developers and list subsequent steps Alameda will take to facilitate development of rental housing such as assisting with site acquisition, fee waivers, priority processing and providing funding or supporting applications for funding. See the Department's *Financial Assistance Program Directory* at http://www.hcd.ca.gov/fa/LG_program_directory.pdf.

ELI Households: Pursuant to AB 2634, existing programs should be expanded, or programs added, to specifically assist in the development of a variety of housing types to meet the housing needs of ELI households. For example, programs could be included to prioritize some funding for the development of housing affordable to ELI households, and/or offer financial incentives or regulatory concessions to encourage the development of housing types, such as SRO units, which address the needs of this income group.

Program 4d (Density Bonus Ordinance) and Second Units: Since the City did not implement these programs in the previous planning period; the element should revise programs as appropriate to ensure their effective and expeditious implementation in the current planning period. Please note, the City should ensure its density bonus ordinance is in compliance with recent statutory amendments (Chapter 1928, Statutes of 2004) to State density bonus law (Government Code Section 65915). A copy of the law is available on the Department's website at <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=gov&group=65001-66000&file=65915-65918>.

3. *Describe the amount and uses of moneys in the redevelopment agency's Low and Moderate Income Housing Fund (L&M Fund) (Section 65583(c)).*

While the element identifies the amount of money anticipated to accrue to the LMIHF through the end of the planning period, it must also describe planned uses (i.e., rental rehabilitation, direct financial assistance for land write-downs and new construction, and first time homebuyer mortgage assistance) and where appropriate, describe funding relative to programs in the element. Additional information is available in the *Building Blocks* website at http://www.hcd.ca.gov/hpd/housing_element2/OR_lowmod.php.

4. *The housing element shall contain programs which "address, and where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing" (Section 65583(c)(3)).*

As noted in finding A3, the element requires a complete analysis of potential governmental constraints. Depending upon the results of that analysis, the City may need to revise or add programs and address and remove or mitigate any identified constraints. The element notes the City's parking and open space regulations limit residential development. As a result, the element must include programs to address or modify these constraints.

In addition, Measure A requires "there shall be no multiple dwelling units built in the City of Alameda" and defines multiple dwelling units as a residential building for three or more families. The City also adopted an ordinance to interpret Measure A to prohibit the alteration of existing structures. Measure A imposes a minimum lot size of 2,000 square feet per dwelling unit citywide, effectively restricting units to duplexes and allowable densities below 22 units per acre. Prohibiting multifamily or limiting density is a fundamental constraint with significant impacts on the cost and supply of housing and particularly a variety of housing types. In addition, Measure A severely restricts promoting higher density housing and mixed-use development near jobs and transit to maximize land resources and address climate change. The element acknowledges Measure A as a constraint on development (page 6-22), but does not include programs. Pursuant to Government Code Sections 65583.2 and 65583(c), the City is required to make zoning available to encourage and facilitate multifamily development and address and remove constraints. As a result, the element must include programs to address and remove or modify the constraint, including making zoning available to allow multifamily uses.

5. *The housing program shall promote equal housing opportunities for all persons regardless of race, religion, sex, marital status, ancestry, national origin or color (Section 65583(c)(5)).*

Program 4b (Fair Housing and Tenant-Landlord Mediation): Should include specific commitment to ensure fair housing information is available throughout community. For example, the City could expand the community locations to disseminate information or conduct education through community events and targeted neighborhood efforts. Please see the *Building Blocks* at http://www.hcd.ca.gov/hpd/housing_element2/PRO_eho.php

D. Public Participation

Local governments shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the housing element, and the element shall describe this effort (Section 65583(c)).

The element did not address this statutory requirement. While the Department understands the City conducted various public workshops, no information describing these efforts is included in the housing element. The element must describe how Alameda made or will make a diligent effort to achieve the participation of all economic segments of the community, including low and moderate income households, in the development of the

housing element. The element should describe how input was solicited, considered and where appropriate, incorporated in the development of the element. Prior to adopting the element, the City should make the draft element, including any revisions, available to the public and groups and individuals participating in the update process.

E. General Plan Consistency

The housing element shall describe the means by which consistency will be achieved with other general plan elements and community goals (Section 65583(c)(7)).

The element does not describe the internal consistency of the general plan. The element must include an evaluation of how internal consistency will be achieved and maintained during the planning period. The element could include a program to conduct an internal consistency review as part of its annual general plan implementation report required under Government Code Section 65400. This annual report can also assist future updates of the housing element. For more information, see the *Building Blocks* website at http://www.hcd.ca.gov/hpd/housing_element2/OR_costal.php#Model_Analyses.